IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JAIPUR BENCH, JAIPUR

S.B. Civil Contempt Petition No.396/2004
in
S.B. Civil Revision Petition No.1040/1992

Babu Lal Meena Vs. Shri Inder Singh Beniwal and Another

Date of Judgment :: 17th August, 2007

Hon'ble Dr. Vineet Kothari, J.

Mr.Vijay Pathak for the petitioner.
Mr.Jinesh Jain for the respondents.

1. Heard learned counsel for the parties.

2. This contempt petition arises out of the judgment and order dated 6.9.1993 passed by this Court in S.B. Civil Revision Petition No.1040/1992 against the order dated 3.7.1992 whereby the application for grant of temporary injunction was rejected by the learned appellate court of Additional District Judge, Hindaun. The application for temporary injunction was already rejected by the trial Court on 28.2.1992.

3. The matter pertains to possession of a small piece of land measuring 16'x23' at bus stand Hindaun and the plaintiff filed a suit for permanent injunction against the defendant – Municipal Council,

Hindaun seeking to restrain them from evicting him.

4. Learned counsel for the respondent – Municipal Council, Hindaun informed the Court during the course of arguments that the main suit itself has been dismissed by the trial Court on 13.8.2002 in default and the same has not been restored by the trial Court as no such application was filed by the petitioner. He, therefore, urged that the present contempt petition arising out of the order passed by this Court for grant of temporary injunction has also become infructuous and since no deliberate disobedience of directions of this Court has been made by the respondents, the contempt deserves to be dismissed. Learned counsel for the respondents-contemnors, however, submitted that in view of the letter dated 22.3.2007 of the Executive Engineer, P.W.D., Hindaun that the disputed land upon whom the petitioner had held unauthorized possession was, in fact, in the domain of Public Works Department and in the National Highway No.22 Karauli-Hindaun-Mahua and State Highway No.1 Hindaun-Bayana, 50' on either side from the middle of the road belongs to P.W.D. He, therefore, submitted that the disputed land in question cannot be allotted to the petitioner. However, the available land with the Municipal counsel is 3'x16' = 48', which could be offered to the petitioner @ Rs.1250/- per square feet on a lease of 99 years and a

letter to this effect has already been given to the petitioner dated 25.5.2007.

5. Learned counsel for the petitioner, however, submitted that the rate of Rs.1250/- per square feet offered by the Municipal Council, Hindaun is based on 2007 DLC rates whereas 1997 rates ought to have been applied in his case as the allotment in question was made in his favour in pursuance of the decision dated 24.4.1997 and the same is referred to in the letter dated 25.5.2007. He, however, had no ready figures available with him pointing out the rates of 1997.

6. In view of the facts and circumstances of the case, this Court is of the opinion that no contempt is made out and accordingly, the contempt petition is dismissed. However, this will not prejudice the offer made by the Municipal Council, Hindaun to the petitioner to give the lease of 99 years on the land available with them of 3'x16' = 48' square feet at the rate prevailing in 1997 as obviously the rates of 2007 cannot be adopted in view of the pendency of the litigation by the petitioner. The Municipal Authorities are at liberty to issue revised allotment letter in terms of the order dated 25.5.2007 taking the rates of 1997 for the said land sought to be alloted in favour of the

petitioner. If the petitioner is willing to take the same at the rates of 1997, he would be free to do so.

7. With these observations, the contempt petition is dismissed.

[**Dr. Vineet Kothari**],**J.**

S.S.**Jr.P.A.**
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